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UNITED NATIONS

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ENGLISH ONLY*

LAWS AND REGULATIONS

PROMULGATED TO GIVE EFFECT TO THE PROVISIONS OF
THE INTERNATIONAL TREATIES ON NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES

In accordance with the relevant articles of the international treaties on narcotic drugs and psychotropic substances, the Secretary-General has the honour to communicate the following legislative texts.

SWEDEN

Communicated by the Government of Sweden

NOTE BY THE SECRETARIAT

(a) Some editing of texts may be done by the Secretariat in the interest of clarity. In this connection, words in square brackets [ ] have been added or changed by the Secretariat.

(b) Only passages directly relevant to the control of narcotic drugs or psychotropic substances have been reproduced in this document. Non-relevant parts of laws and regulations have been deleted by the Secretariat; such deletions are indicated by [...].

ACT CONCERNING THE USE OF CERTAIN COERCIVE MEASURES AT THE REQUEST OF A FOREIGN STATE (1975:295)

Conditions for the use of coercive measures

Section 1 If a person in a foreign state is suspected, accused or convicted of an offence which is punishable there, or a special action for confiscation is instituted in a foreign state, following a petition from the foreign state, a decision on seizure or attachment may be taken pursuant to the provisions of this Act.

Seizure may refer to objects or written documents available in Sweden. The provisions of Chapter 27 Sections 2 and 3 of the Code of Judicial Procedure shall be applicable. For the purpose of searching for property which is subject to seizure, a search of premises may be undertaken under the provisions of Chapter 28 Sections 1 and 3 of the Code of Judicial Procedure. (1990:273)

*) Note by the Secretariat: The present document is a direct reproduction of the text communicated to the Secretariat.

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Section 2 Property which can reasonably be assumed to be of significance for an investigation into an offence or to have been taken from a person by the same offence, may be seized and delivered to the foreign state.

The provisions of the first paragraph also apply to property which can reasonably be assumed to be confiscated in consequence of a crime, if the property would be confiscated under Swedish law in legal proceedings in Sweden and there are special reasons for delivering the property to the foreign state.

Section 2a If confiscation which has been decided after litigation in the foreign state may be executed here,

1. property which has been confiscated in the legal proceedings or can reasonably be assumed to be confiscated as a consequence of crime, may be seized,

2. attachment may be ordered on as much of the assets of the person concerned as corresponds to the value of what has been confiscated or can reasonably be assumed to be confiscated, if it is reasonable to fear that enforcement of the foreign confiscation order would otherwise be rendered more difficult. (1990:273)

Section 3[1/] A measure pursuant to Section 2 may not be taken in consequence of a petition from a state other than Denmark, Finland, Iceland or Norway, if there is an impediment to extradition for the offence under Section 4 paragraph 1, Section 5 or Section 10 of the Act on Extradition of Offenders (1957:668).

1/ Most recent wording 1977:436.

A measure pursuant to Section 2 may not be taken in consequence of a petition from Denmark, Finland, Iceland or Norway, if there is an impediment to extradition for the offence under Section 3 paragraph 1 or Section 5 of the Act on Extradition of Offenders to Denmark, Finland, Iceland and Norway Act.

Should there have been an impediment to extradition for the offence pursuant to Section 6 of the Act on Extradition of Offenders or Section 4 of the Act on Extradition of Offenders to Denmark, Finland, Iceland and Norway, the measure may only be taken if the petition has been submitted by a state which has acceded to the European Convention of 27 January 1977 on the Suppression of Terrorism, and if the act constitutes an offence pursuant to that Convention. (1990:273)

Section 4 Decisions on the delivery of seized property to a foreign state may provide for the reservations which are required out of consideration for individual rights or from a general point of view.

Procedure in the case of a request from a non-Nordic country

Section 5 [2/] Petitions from states other than Denmark, Finland, Iceland or Norway shall be submitted to the Ministry for Foreign Affairs. This shall be done through diplomatic channels, unless Sweden has reached an agreement with the foreign state on another procedure.

Petitions shall contain particulars of the person's name, nationality and place of residence, the property or sum the petition refers to, the nature of the offence, the time and place of the offence and the penalty provisions applicable in the foreign state. If judgment has been passed in the foreign state, a copy thereof shall be attached to the petition. If not, details shall be supplied of the circumstances adduced in support of the suspicion or

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2/ Most recent wording 1981:1303.

prosecution and, where applicable, individual claims. A petition pursuant to Section 2a should, where applicable, contain details of the date on which a prosecution is to be commenced or a judgment can be pronounced. (1990:273)

Section 6 The Letters Rogatory shall contain particulars of the person's name, nationality and place of residence, the property in question, the nature of the offence and the penalty provisions applicable in the foreign state. if judgment has been passed in the foreign state, a copy thereof shall be attached to the Letters Rogatory. If not, details shall be supplied of the circumstances adduced in support of the suspicion or prosecution and, where applicable, of the claim or claims made. Act 1981:1404.

Section 7 The Prosecutor-General shall see to it that the measures required by the petition are taken. The provisions of Chapter 26 Section 3 paragraph 1, Chapter 27 Sections 9 - 13 and Chapter 28 Sections 4-10 of the Code of Judicial Procedure shall be applicable. (1990:273)

Section 8 The court shall be notified without delay when seizures have been executed pursuant to Section 2, for consideration of whether the seizure has been made on lawful grounds and consequently shall continue, and whether it is necessary to provide reservations pursuant to Section 4 when the property is handed over to the foreign state.

The court shall open proceedings on the matter as soon as possible. The provisions of Chapter 24 Section 17 paragraph 2 of the Code of Judicial Procedure shall apply to such proceedings. The court shall rule on the matter by passing a decision.

After a decision has been passed by the court, the Prosecutor-General shall hand over the matter with a statement of his opinion to the Government.

If the court has found that the seizure has not been made on lawful grounds, the Government shall deny the petition. Otherwise, the Government shall consider whether the seized property shall be delivered to the foreign state. If the petition is granted, such reservations pursuant to Section 4 as the court deems requisite or as the Government otherwise considers necessary, shall be provided by the Government. (1990:273)

Section 9 Matters concerning seizures which have been made pursuant to Section 2a and petitions for attachment shall be handed over to a court of law for consideration without delay.

Section 8 paragraph 2 shall apply to the court's handling of the matter. In urgent cases, the court may grant immediate attachment to continue until it has been decided otherwise. Chapter 26 Section 4 paragraph 3 and Section 8 of the Code of Judicial Procedure shall apply, if attachment is decided.

When the court decides on attachment or affirms a seizure which has been made, the court shall determine how long the measure may continue. The time established may be extended if there are reasons for so doing. If grounds for attachment or seizure no longer exist, the court shall rescind the measure. Before attachment or seizure is rescinded, through the offices of the Ministry for Foreign Affairs the court shall give the foreign state an opportunity to comment, unless this is obviously unnecessary. Otherwise, the measure shall continue until the application for its enforcement has been tried.

The Prosecutor-General shall inform the Ministry for Foreign Affairs of the measures which have been taken pursuant to this Section.

Section 9a The matters referred to in Section 9 shall be tried by the Stockholm city court. The city court may also try the matters referred to in Section 8 if required by the foreign petition. (1990:273)

Procedure in the case of a request from a Nordic state

Section 10 A petition from Denmark, Finland, Iceland or Norway shall be submitted by the relevant police or public prosecution authority either to the Prosecutor-General or, if the whereabouts of the property is known, to the Regional or District Prosecutor.

The provisions of Section 5 paragraph 2 shall apply with respect to the petition. (1990:273)

Section 11 If the prosecutor finds any impediment to granting the petition pursuant to this Act, or finds that it should be denied on any other grounds, he shall deny the petition immediately. Otherwise, he shall take appropriate measures in pursuance of the petition. The provisions of Chapter 26 Section 3 first paragraph, Chapter 27 Sections 9-13 and Chapter 28 Sections 4-10 of the Code of Judicial Procedure shall be applicable. (1990:273)

Section 12 When a seizure has been made pursuant to Section 2, it shall be reported to a court of law without delay. The court shall consider whether the seizure has been made on lawful grounds and decide whether the property shall be delivered to the foreign state. If the petition is granted, the court shall provide for the requisite reservations pursuant to Section 4.

Section 8 paragraph 2 shall apply to the court's handling of the matter. (1990:273)

Section 13 Section 9 paragraphs 1-3 shall apply to matters concerning seizures made pursuant to Section 2 a and petitions for attachment. The comments referred to in Section 9 paragraph 3 may be obtained directly from the relevant police or public prosecution authority. (1990:273)

On behalf of the Government

LAILA FREIVALDS

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